

REMARKS/ARGUMENTS

The Status of the Claims.

Claims 17 and 19 are pending with entry of this amendment, claims 1 to 16, 18 and 20 to 26 being previously cancelled. Claim 17 is amended herein. These amendments introduce no new matter and support is replete throughout the specification. These amendments are made without prejudice and are not to be construed as abandonment of the previously claimed subject matter or agreement with any objection or rejection of record.

With respect to claim 17, the amendment merely amends out an aspect.

Applicants submit that no new matter has been added to the application by way of the above Amendment. Accordingly, entry of the Amendment is respectfully requested.

Interview Summary.

In January 17, 2008, Applicant's representative had a telephonic Interview with SPE Wilson. Claim 17 was discussed with regard to the Improper Markush rejection. SPE Wilson agreed that the rejection must be withdrawn. However, it was noted that in the Office Action of July 15, 2003, the Office made a second Restriction of Group 1 into three subgroups. The Applicant's representative at the time does not appear to have traversed this restriction.

SPE Wilson agreed that there are significant similarities between the cephalosporins and oxacephems. He suggested that if Applicants would respond to the October 17, 2007, Action, he would ensure that the oxacephem aspect would be further searched and considered.

Applicants note that this Response is filed according to this agreement and Applicants respectfully request rejoinder of the oxacephem aspect into current consideration.

35 U.S.C. §112, Second Paragraph.

Claims 17 was rejected under 35 U.S.C. §112, second paragraph, as indefinite because definition of "R" was omitted and a carbon missing from an R' formula. Applicants appreciate these observations and note they were the result of an unnoticed computer software glitch and a typing error. The lost definition and lost carbon were never formally amended out and have now been properly reestablished in the written Claim Listing.

Double Patenting.

Claims have been provisionally rejected based on the judicially created doctrine of obviousness-type double patenting based on commonly owned application U.S. 10/884019. Applicants traverse.

It is not clear whether the claims ultimately issuing from these cases will be distinct. Applicants agree that should claims be allowed that are obvious in light of issued claims in the other case, a terminal disclaimer may be filed.

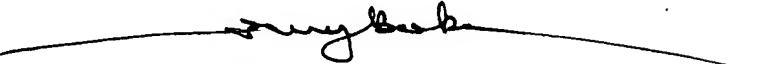
CONCLUSION

In view of the foregoing, Applicants believes all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the claims are deemed not to be in condition for allowance after consideration of this Response, a telephone interview with the Examiner is hereby requested. Please telephone the undersigned at (510) 769-3510 to schedule an interview.

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Respectfully submitted,


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Attachments:

- 1) A petition to extend the period of response for 1 month;
- 2) A transmittal sheet;
- 3) A fee transmittal sheet; and,
- 4) A receipt indication postcard.